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5 **Terry A. Dake - 009656**

6 Attorney for Trustee

7 **IN THE UNITED STATES BANKRUPTCY COURT**

8 **FOR THE DISTRICT OF ARIZONA**

9 In re:) In Chapter 7 Proceedings
)
10 GARY A. MARTINSON,)
RONNA L. MARTINSON,) Case No. 2:09-BK-33841-RJH
11)
Debtors.)
12 _____)

13 **NOTICE OF BAR DATE FOR OBJECTIONS TO TRUSTEE'S MOTION**

14 **PLEASE TAKE NOTICE** that the trustee has filed the attached
motion with the Court. Your rights may be affected by this motion.

15 You should read these papers carefully, and discuss them with
16 your attorney if you have one. If you do not have an attorney, you may
wish to consult one.

17 If you do not want the Court to grant the trustee's motion, or
18 if you want the court to consider your views on the trustee's motion,
then on or before **July 2, 2010**, you or your attorney must file with the
19 Court a written response setting forth your concerns and requesting a
hearing on the trustee's motion. Your response must be filed with the
20 Court at:

21 **Clerk Of The Court**
United States Bankruptcy Court
22 **230 N. First Ave.**
Ste. 101
23 **Phoenix, Arizona 85003-1706**

24 If you mail your response to the Court, you must mail it early
25 enough so the Court will receive it on or before the date stated above.
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1 You must also mail or e-mail¹ a copy of your response to the
2 attorney for the trustee at:

3 Terry A. Dake, Esq.
4 **TERRY A. DAKE, LTD.**
5 11811 North Tatum Boulevard
6 Suite 3031
7 Phoenix, Arizona 85023-1621
8 tdake@cox.net

9 If you or your attorney do not take these steps, the Court may
10 decide that you do not oppose the trustee's motion and may enter an
11 order that grants the trustee's motion without further notice or
12 hearing.

13 DATED June 8, 2010.

14 **TERRY A. DAKE, LTD.**

15 By /s/ TD009656
16 Terry A. Dake
17 11811 North Tatum Boulevard
18 Suite 3031
19 Phoenix, Arizona 85028-1621
20 Attorney for Trustee

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27 ¹ E-mailed papers must be in pdf format.

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11)
Debtors.)
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13 **MOTION TO APPROVE SALE OF ASSETS**

14 The trustee moves this Court for the entry of an order
15 approving a sale of assets of the estate. The trustee's motion is more
16 fully set forth in and is supported by the following Memorandum Of
17 Points And Authorities.

18 DATED June 8, 2010.

19 **TERRY A. DAKE, LTD.**

20 By /s/ TD009656
Terry A. Dake
21 11811 North Tatum Boulevard
Suite 3031
22 Phoenix, Arizona 85028-1621
Attorney for Trustee
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 The trustee has received from Asset Group¹ an offer to purchase
3 all assets of the estate, with certain limited exceptions. The assets
4 to be sold include all tangible and intangible personal property of the
5 estate, and all real property of the estate, excluding any exempt assets
6 of the debtors,² and all avoidance rights of the estate under 11 U.S.C.
7 §§544-551. Other than the exempt assets of the debtors, the only other
8 assets which are excluded from this sale are the following items:

9 1. All cash currently held by the trustee.

10 2. All amounts due to the estate by Lohman Company, PLLC

11 The purchase price for these assets will be \$250,000.00.
12 Further, the estate shall retain the right to be paid 10% of the net
13 recovery on any of these assets, after the purchaser has first recovered
14 \$250,000.00 from the assets. The "net recovery" shall be defined as the
15 gross recovery less attorneys' fees and costs incurred in connection
16 with the recovery and liquidation of any of the assets.

17 The buyer shall have complete control over the methods and
18 procedures employed to recover on any of the assets purchased. However,
19 any settlements shall require approval by this Court. The trustee may
20 object to the reasonableness of any proposed settlement and this Court
21
22

23 ¹ The final purchaser may be an assignee of Asset Group.
24 Asset Group is an unincorporated association comprised of the
25 plaintiffs in Adv. No. 2:10-ap-00743-RJH.

26 ² The trustee has objected to the allowance of certain
27 exemptions. Admin. Docket No. 69. The purchaser will take over
28 the prosecution of the objection and will be entitled to the
recovery of any assets which are determined by the Court to be non-
exempt.

1 shall retain jurisdiction to determine whether the proposed settlement
2 is reasonable.

3 The trustee believes that this proposed sale is reasonable and
4 in the best interest of the estate. The proposed sale provides an
5 immediate and certain return to the estate, and allows the estate the
6 potential for additional recovery without additional expense.

7 The agreed upon amount of \$250,000.00 shall be paid to the
8 trustee by the purchaser not later than ten (10) days after the entry of
9 an order approving this sale. Upon payment in full, the assets shall
10 vest in the purchaser without further order of the Court.

11 Finally, the trustee understands that certain claims under
12 Sec. 523 are being pursued by Asset Group. To the extent that there is
13 an actual or potential conflict of interest in the pursuit of those
14 claim and the potential recovery that is due to the estate under this
15 sale, the trustee expressly waives that conflict, if any.

16 **WHEREFORE**, the trustee prays for the entry of an order
17 approving a compromise with the debtor as set forth herein.

18 DATED June 8, 2010.

19 **TERRY A. DAKE, LTD.**

20
21 By /s/ TD009656
22 Terry A. Dake
23 11811 North Tatum Boulevard
24 Suite 3031
25 Phoenix, Arizona 85028-1621
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1 APPROVED AND AGREED:

2 *Vishnu R. Juralagadda, Esq.*
3 *on behalf of*

4 **RANDY NUSSBAUM**

5 **NUSSBAUM & GILLIS, P.C.**

6 **14500 N. NORTHSIGHT**

7 **BLVD. - #116**

8 **SCOTTSDALE, AZ 85260**

9 **480-609-0011**

10 **Fax : 480-609-0016**

11 **Email: rnussbaum@nussbaumgillis.com**

12 **Attorneys for Purchaser**